



Jackson, Etti & Edu

THE ENACTMENT OF THE NIGERIAN
FEDERAL COMPETITION AND
CONSUMER PROTECTION ACT

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Introduction

Indeed, monopoly hinders the growth of any sector of an economy or any market where it subsists, particularly an emerging market like Nigeria. The lack of a comprehensive legal framework governing competition issues in Nigeria has arguably led to artificial scarcity of high valued goods and services, the creation of inferior products, restrictive practice, less innovation, and anti-competitive behaviour such as price fixing, amongst others.

We, at Jackson Etti & Edu (“JEE”) commend the introduction of a legal framework for competition in Nigeria with the enactment of the Federal Competition and Consumer Protection Act 2019 (“the FCCPA”). The highlights of the provisions of the FCCPA are captured below:

Scope and Application

The FCCPA applies to all undertakings and all commercial activities within, or having effect within, Nigeria. Interestingly, the provisions of the FCCPA are binding on Federal and State government corporations and parastatals as well as all commercial activities aimed at making profit and geared towards the satisfaction of demand from the public.

Regulatory Framework

The FCCPA establishes the Federal Competition and Consumer Protection Commission (“the Commission”) to promote and maintain competitive markets in the Nigerian economy and ensure welfare of consumers by providing consumers with product choices at competitive prices, amongst other functions that are ancillary and incidental to consumer protection and competition. It also repeals the Consumer Protection Council Act Cap C25 Laws of the Federation of Nigeria 2004 and Sections 118 – 128 of the Investments and Securities Act Cap I24, Laws of the Federation of Nigeria 2014 dealing with merger control.

Competition and Merger Control

The FCCPA prohibits restrictive agreements and abuse of a dominant position and provides for stiff penalties for contravention of its provisions. It also introduces a new regulatory landscape with respect to merger control in Nigeria.

Consumer Protection

It is important to note that the rights and protection afforded consumers under the FCCPA are more explicit and comprehensive than the rights and protection afforded to consumers under the now repealed Consumer Protection Council Act. The FCCPA also provides variety of options available to consumers in the enforcement of these rights, thus affording the consumers the liberty to choose the most suitable option to enforce their rights.



The FCCPA in the Context of Existing Legal Framework

The FCCPA provides that its provisions would override the provisions of any other law, apart from the Constitution in all matters relating to competition and consumer protection and the Commission would have precedence over and above any other regulator in matters or conducts which affect competition and consumer protection.

Furthermore, the FCCPA directs the Commission to negotiate agreements with all government agencies whose mandate includes enforcement of competition and consumer protection in order to co-ordinate and harmonise the exercise of jurisdiction over competition and consumer protection matters within the relevant industry or sector.

Conclusion

The expansion of the Nigerian legal framework on competition and consumer protection is a welcome development. For a sector focused firm like JEE, we are positive that its provisions will have a massive impact on the Nigerian economy.

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